

MINUTES OF FAUQUIER COUNTY BOARD OF ZONING APPEALS

March 7, 2002

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, March 7, 2002, beginning at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Barr, Chairman; Mr. John Meadows, Vice Chairman; Mrs. Margaret Mailler, Secretary; Mr. James Van Luven; Mr. Eugene Lofdahl; Mr. Maximilian A. Tufts, Jr.; and Ms. Sonja R. Addison. Also present were Mr. Paul McCulla, County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator and Carole L. Hensley, Office Associate III.

MINUTES: On motion made by Mr. Meadows and seconded by Mr. Tufts, it was moved to amend the minutes of the second case of last month's meeting. The amendment was made to the special permit request of Mr. and Mrs. Thompson, condition number 8 to read no additional screening is required because the natural screening is sufficient to screen the view of the equipment located outside of the garage.

On motion made by Mr. Lofdahl and seconded by Mr. Tufts the February minutes were approved as amended and submitted. Motion carried unanimously.

LETTERS OF NOTIFICATIONS & PUBLIC NOTICE: The Zoning Administrator stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners. Mr. Barr asked Ms. Hensley to read the Public Hearing Protocol and it was read.

SPECIAL PERMIT #48784 SUMERDUCK BAPTIST CHURCH, APPLICANTS (OWNERS)

Applicants requested special permit approval for an addition to an existing place of worship. This property is zoned village (V) and is located at 5354 Sumerduck Road, Sumerduck, Virginia, Lee District.

Mr. Hodge stated that a site visit was not made. He reviewed the staff report, a copy of which is attached to and made a part of the minutes.

He stated that that the addition is for an existing place of worship and would be for two (2) bathrooms, a kitchen and a dining area. This proposed addition would contain 1,040 square feet and be placed on the rear of the existing structure.

Mr. Hodge stated the church was constructed in 1939 and contains approximately 3,294 square feet. The BZA visited the site in September 7, 2000 meeting and approved the special permit at that meeting, but applicants did not file a site plan before one (1) year had elapsed, and site

plan approval is needed for the project, and that site plan approval is valid for five (5) years from the date of approval. He further indicated that the applicants are not proposing any changes to the original application.

Mr. Hodge stated that the staff review indicates that the addition to the existing place of worship will be located on 3.5 acres and a review of the special permit application states there is no floodplain on the property according the Flood Insurance Rate Map, VDOT believes the addition will have no adverse effects and application has been made to the Health Department for the project.

Mr. John Hitt spoke on behalf of the church and stated that the church was needed this addition, especially for the social and because plans were held up for whatever reason they did not make the deadline to submit site plan for the first application. He agreed to everything Mr. Hodge stated in his review.

Mr. Lofdahl inquired about the site plan being ready for submission.

Mr. Hodge stated that they do have site plan approval but were preparing to file once the special permit was approved.

On motion made by Mr. Lofdahl and seconded by Mr. Tufts, in Application No. 48784 it was moved to approve the special permit, after due notice and hearing, as required by Code of Virginia §15.2-2204 and §5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-602 Additional Standards for Places of Worship

Uses proposed in conjunction with places of worship shall be subject to regulations applicable to such use (e.g., schools, athletic facilities).

5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance):

(a) site plan approval

The motion carried unanimously.

VARIANCE #48831 STEPHANE J.R. AND SYLVIA A. MAINVILLE, APPLICANTS (OWNERS)

Applicants requested a variance to the front setback requirement for proposed additions to an existing single-family dwelling constructed more than 100 years ago. The porch of the existing non-conforming structure lies 51.8 feet from the centerline of Route 647, wherein the Zoning Ordinance requires 90 feet for new construction. The additions will not be located closer to the centerline of Route 647 (Crest Hill Road) than the existing structure. Applicants are requesting a variance of 38.2 feet. The property is zoned Rural Agriculture (RA) and is located at 9429 Crest Hill Road, Marshall, Virginia.

Mr. Hodge stated that a site visit was made. Mr. Hodge then reviewed the staff report, a copy of which is attached to and made a part of these minutes. He stated that the property is zoned Rural Agriculture and Route 647 (Crest Hill Road) is designated as a major collector in the Comprehensive Plan, which mandates a minimum required front yard setback of 90 feet from the centerline. With the exception of a small sliver, the existing dwelling unit lies entirely within the current 90-foot requirement. A house location survey done November 1, 1979 shows the front wall of the existing dwelling to be located 59.8 feet from the centerline of the road, but an existing porch extends eight (8) additional feet into the required front yard. Section 10-301 of the Zoning Ordinance permits the expansion of the nonconforming structures into a required yard. The addition may not encroach a distance greater than the existing nonconformity structure, and the addition may contain no more than 30 percent of the square footage of the nonconforming area.

The Mainville residence contains approximately 1983 square feet of gross floor area, so Section 10-301 would permit only 595 square feet to make the variance necessary.

The applicants stated in their application that the existing dwelling was constructed in 1830, and that the location of the dwelling, the topography and the location of the the septic tank and drainfield area do not allow them to add any other place.

Mr. Steve Mainville confirmed what Mr. Hodge stated was correct.

Mr. Lofdahl asked if the septic tank and drainfield were behind the porch in the back of the house.

Mr. Mainville answered yes and explained its exact location.

On motion made by Mrs. Mailler and seconded by Mr. Meadows, in application No. 48831, it was moved to approve the variance based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because: The location of the existing dwelling is within the required front setback .
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of:
 - (a) the exceptional narrowness, shallowness, size or shape of the property at the time of the effective date of the Ordinance;
 - (b) exceptional topographic conditions or other extraordinary situation or condition of the property;
 - (c) exceptional topographic conditions or other extraordinary situation or condition of property immediately adjacent thereto;
5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are: *(all of the above):*
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.

9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
10. The minimum variance that is necessary to afford relief is
38.2 feet

The motion carried unanimously.

SPECIAL PERMIT #48855 GRACE INDEPENDENT BIBLE CHURCH (OWNERS)

Applicants requested special permit approval to construct a place of worship of approximately 11,000 sq. feet. The property is zoned Rural Agriculture (RA) and is located at Free State Road (Rt. 721), Marshall, Virginia.

Mr. Hodge stated that there was a site visit made to this property and he reviewed the staff report, a copy of which is attached to and made a part of the minutes.

He stated that the Board of Zoning Appeals granted a special permit February 1, 2001 to Hunter and Jeannette Payne (owners) and Grace Independent Bible Church (Contract Owner) for the construction of a new place of worship. The church is now the owner of the property. Following the special permit approval, the plans for the structure were significantly altered, the configuration of the footprint thus changed and the building increased in size approximately 1,000 square feet in size.

He stated that the proposed building delineating the sanctuary, classroom and office spaces, now contains approximately 11,000 square feet.

Mr. Barr asked Charles Englehart, who represented the church and as the engineer for the church, if he agreed with Mr. Hodge's report and Mr. Englehart replied yes.

Mr. Englehart also stated that they moved the church structure away from the road due to the topography being so steep, and the underlying rock.

Mr. Meadows inquired as to the height of steeple because of the elevation of the proposed church.

Mr. Lofdahl inquired as to the lighting on the steeple of the church and Mr. Englehart said it would not be lighted.

On motion made by Mr. Tufts and seconded by Mrs. Mailler, in Application No. 48855, it was moved to grant the special permit, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards that apply to the use in question, namely:

5-602 Additional Standards for Places of Worship

Uses proposed in conjunction with places of worship shall be subject to regulations applicable to such use (e.g., schools, athletic facilities).

5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance):
 - (a) as per site drawing submitted with the application;
 - (b) identification sign as permitted by Zoning Ordinance;
 - (c) Lighting for security will be down-shielded and in conformance with the Zoning Ordinance;
 - (d) the steeple shall not exceed 34.2 feet; and
 - (e) the steeple shall not be lighted

The motion carried unanimously.

SPECIAL PERMIT #48860 ROGER HARRIS, APPLICANT (OWNER)

Applicant requested a special permit approval to operate an auto repair garage from an existing detached garage as a residential business with a maximum of four vehicles on the property at any one time. The property is zoned Rural Agriculture (RA) and is located at 1452 Cromwell Road, Catlett, Virginia.

Mr. Fred Hodge stated that there was a site visit and then he reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. Hodge stated that the applicant is requesting special permit approval to operate an auto

repair garage as a home business. The business would be operated from an existing detached garage on the property, he would be the sole employee of the operation, he would not erect a sign on the property and his hours of operation would be 8: a. m. until 6:00 p. m. Monday through Friday. He further stated that site plan approval is not required for this use.

The Virginia Department of Health did not comment on the application. The Virginia Department of Transportation commented on the application that since the traffic is not exclusive to the residential dwelling, access to this property will need to be upgraded to a Standard Commercial Entrance.

Mr. Meadows stated that he had never seen VDOT's comments written that way and inquired the staff what it meant.

Mrs. Bowen replied that she had talked to Dave Cubbage, Land Development Section Supervisor for Virginia Department of Transportation and he told her that VDOT is concerned when there is additional traffic. She said that she suggested that he look at every case individually, and make the decision based on each individual application.

Mr. Meadows inquired if there had been a change in VDOT's personnel and with their policy regarding entrances for residential businesses and Mrs. Bowen replied that there had been.

Mr. Roger Harris introduced himself to the board and said that he agreed to Mr. Hodge's staff review.

Mr. Barr asked him if he was planning on moving the excess vehicles off of the property and Mr. Harris replied yes, by the end of the month.

Mr. Lofdahl asked him if he was requesting the amount of vehicles is four in addition to personal vehicles and Mr. Harris replied yes, four cars to work on.

Mr. Meadows asked if he had met setbacks and met requirements and Mr. Harris replied yes.

On the motion made by Mr. Lofdahl and seconded by Mr. Meadows, in Application No. 48860, it was moved to grant the special permit, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.

3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-205

Additional Standards for Auto Repair Garages

1. Must be conducted on the same lot as the proprietor of the business.
 2. All employees must reside on the lot and shall not exceed two.
 3. All work shall be accomplished and vehicles in excess of two shall be located in a completely screened area and shall not be in any required yard.
 4. A minimum of 2 acres shall be required.
 5. Limited to 4 vehicles.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance):
- (1) That the natural existing screening remain, and either be added to or a fence be erected to screen the vehicles;
 - (2) The removal of all other vehicles by the end of the month; and
 - (3) That the Virginia Department of Transportation approves the entrance.

The motion carried unanimously.

SPECIAL PERMIT, JOSHUA WINDER AND NINA MCKEE (OWNER)

Applicants requested special permit approval to locate a professional office (accounting office) with three (3) or less employees in an existing accessory building. The property is zoned Rural Agriculture (RA) and is located at 7237 Leeds Manor Road, Marshall, Virginia.

Mr. Fred Hodge stated that there was no site visit and reviewed the staff report, a copy of which is attached to and made a part of the minutes herein.

Mr. Hodge stated that the applicants are seeking special permit approval to operate a

professional office with three or less employees on the property. The use will be an accountant's office, which will be located in an existing accessory building.

The Virginia Department of Transportation commented that a commercial entrance may be required and Mrs. Bowen said she had spoken to Mr. Cubbage concerning his letter and he stated he would look at this site on an individual basis and make a decision as to whether or not the entrance would have to be updated.

Tom Ross, Attorney, spoke on behalf of the applicants and agreed with Mr. Hodge's staff report and stated that the supplement building is 1000 square feet and that it was located about 100 feet or so from the house and a greater distance from Leeds Manor Road.

On the motion made by Mr. Van Luven and seconded by Mr. Tufts, in application no. 48871, it was moved to grant the special permit, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance):
 - a) VDOT's approval for entrance requirements;
 - (b) Hours of operation would be 9:00 a.m. to 6:00 p.m. as stated in application;
 - (c) No sign is to be erected;
 - (d) This permit does not transfer with sale or lease of the property

The motion carried unanimously.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at approximately 3:29 P.M.

William W. Barr, Chairman

Mrs. Margaret Mailler, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

C:\bza files\2002 minutes\03-07-02.doc